

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
HolstonConnect, LLC,)	
)	
Complainant,)	
)	
v.)	MB Docket 19-60
)	CSR 8974-C
)	
Nexstar Media Group, Inc.)	
)	
)	
Defendant.)	

**REPLY OF HOLSTONCONNECT TO DEFENDANT’S OPPOSITION TO
“EMERGENCY REQUEST FOR DESIGNATION AS ‘PERMIT-BUT-DISCLOSE’
PROCEEDING”**

Complainant HolstonConnect, LLC (“HolstonConnect”) submits this Reply to the Opposition of Defendant Nexstar Media Group, Inc. (“Nexstar”) to HolstonConnect’s request that the Commission designate the above-captioned proceeding as a “permit-but-disclose” proceeding (“PBD Request”).

DISCUSSION

I. Designating this matter as “permit-but-disclose” proceeding is consistent with prior Commission determinations and is in the public interest, and Nexstar has offered no convincing evidence or authority to the contrary.

In its Opposition to HolstonConnect’s request for treatment as a “permit-but-disclose” proceeding, Nexstar begins by reciting a parade of horrors drawn from the Commission’s 1997 *Ex Parte* Report & Order, suggesting that allowing *ex parte* discourse in this proceeding “would be disruptive,” and would “undermine the orderliness” of this proceeding.¹ As HolstonConnect discussed in its PBD Request, however, and as Nexstar essentially acknowledges, more recent Commission decisions (in 2009 and 2018) report that allowing *ex parte* communications in retransmission consent matters resulted in no deleterious effect to the adjudicatory process.²

Nexstar rightly identifies the key question here as being whether allowing additional discourse in this matter is in “the public interest.” As HolstonConnect explained in its PBD Request, the Commission has not hesitated to find so in these other two situations, and the Commission should do so here as well.

Nexstar fails to distinguish these cases. In one, the Commission found *ex parte* communication to be in the public interest where there was a potential removal of previously-carried broadcast signals. In the other, the Commission did so where operators allegedly failed to comply with subscriber notice and assistance requirements.

¹ Nexstar’s Opposition to PBD Request, at 2, *see* n.3.

² PBD Request, at 2-3.

According to Nexstar, there is no public interest to be served here because HolstonConnect is seeking carriage for the first time and is not threatened with the loss of existing carriage rights. Nexstar also argues that “there is nothing remotely policy-laden about this case; this is a garden-variety situation in which the parties have not yet been able to reach terms on retransmission consent.”³ For the reasons set forth in HolstonConnect’s Complaint and Reply, Nexstar is clearly incorrect.

This matter implicates several unusual policy-related issues and factors for which the public interest and the Commission would no doubt benefit by developing the record further (including by entities other than the Parties to this proceeding). These issues include, for example: 1) the clash between Nexstar’s conduct and the Commission’s efforts to encourage electric cooperatives to step forward promptly to provide advanced communications services and capabilities in unserved and underserved rural areas; (2) the ability of a new MVPD to enter and compete in the video services market in the face of unfettered market power by a gigantic broadcast television conglomerate (one that is seeking to become dramatically larger); and 3) the need for a fresh look at the Commission’s “good faith” rules as applied to the conditions that currently exist in the marketplace. The facts in this matter should also provide the Commission and the public a better appreciation of what lies ahead if the Nexstar-Tribune merger is approved.

II. Nexstar wrongly claims that HolstonConnect has not kept rates confidential.

Nexstar baldly claims, out of the blue and without any elaboration or supporting evidence, that HolstonConnect “has not bothered to keep [rates] confidential.”⁴ Let us be absolutely clear:

³ Nexstar’s Opposition to PBD Request, at 3.

⁴ *Id.*, at 4.

HolstonConnect has not shared any rate information concerning its discussions with Nexstar with any other party other than its consultants, nor have HolstonConnect's consultants shared such information. For Nexstar to make such an untrue and unsupported claim in a public proceeding such as this is borderline defamatory.

III. Conclusion

For the reasons stated above and in Complainant's PBR Request, the Commission can and should promptly designate this matter as a "permit-but-disclose" proceeding.

Respectfully Submitted,



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April 11, 2019

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2019, I caused a confidential copy of the foregoing Reply of HolstonConnect to Defendant's Opposition to Emergency Request for Designation as "Permit-But-Disclose" Proceeding to be served by Federal Express, postage prepaid, upon the following:

Nexstar Media Group, Inc.

Attn: Elizabeth Ryder

Executive Vice President and General Counsel

545 E. John Carpenter Freeway, Suite 700

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A handwritten signature in black ink, appearing to read "Jim Baller". The signature is fluid and cursive, with the first name "Jim" and last name "Baller" clearly distinguishable.

Jim Baller